

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

TIFFANI ROBINSON

PLAINTIFF

V.

CIVIL ACTION NO.: 3:18-CV-168-LG-LRA

**KELLY SERVICES, INC.; and
NISSAN NORTH AMERICA, INC.**

DEFENDANTS

**COMPLAINT
JURY TRIAL DEMANDED**

COMES NOW, Plaintiff, Tiffani Robinson, and brings this action against her former employers, Kelly Services, Inc. and Nissan North America, Inc. As more specifically set forth below, Plaintiff has been subjected to discrimination in the terms and conditions of her employment with Defendants. The actions of the Defendants are in violation of the Family and Medical Leave Act of 1993, as amended, and constitute unlawful retaliation.

THE PARTIES

1. Plaintiff, Tiffani Robinson, is an adult female resident of Hinds County, Mississippi.
2. Defendant, Kelly Services, Inc. is a Delaware corporation and may be served with process through its registered agent, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.
3. Defendant, Nissan North America, Inc. is a California corporation and may be served with process through its registered agent, CSC of Rankin County, Inc., Mirror Lake Plaza, 2829 Lakeland Drive, Suite 1502, Flowood, MS 39232.

JURISDICTION

4. This court has federal question and civil rights jurisdiction for actions that arise under the Family Medical Leave Act of 1993 (FMLA).

5. This Court has personal and subject matter jurisdiction over the Defendants and venue is proper in this Court.

STATEMENT OF FACTS

6. Plaintiff was hired by Kelly Services, Inc. and placed at Nissan North America, Inc. as a Production Technician on November 5, 2012.

7. Plaintiff's four children suffer from severe asthma and require medical attention.

8. Defendant, Kelly Services, Inc., approved Plaintiff to be on intermittent leave in accordance with the FMLA from April 1, 2015 until April 2, 2016.

9. In January 2016, Plaintiff spoke to Meredith Maxfield, Human Resources Analyst: FMLA for Kelly Services, about her FMLA total.

10. Plaintiff's FMLA time was tracked by a Nissan Representative using the Kelly Services system.

11. Plaintiff was terminated from employment on March 21, 2016 for alleged excessive absences.

12. The attendance policy Plaintiff followed was referenced in the Employee Handbook entitled "Nissan North America Manufacturing" and is proprietary to Kelly Services.

13. The attendance policy was a point system where 18 points was a dischargeable offense, but it was converted to an occurrence system.

14. Under the occurrence attendance policy, a total of 3 occurrences was considered dischargeable.

15. Plaintiff was terminated after missing 5 days equaling 5 occurrences due to her children's medical issues.

16. In an unemployment appeals decision from November 17, 2016, the administrative judge ruled that Plaintiff was entitled to unemployment benefits because the employer did not meet its burden of proving an exhaustion of FMLA leave. The Defendants are bound by this determination.

17. During the hearing, the employer representative from Kelly Services could not definitively say when Plaintiff exhausted her FMLA leave.

18. Plaintiff maintains that she did not exhaust her leave and the Defendants did not correctly apply leave to eligible absences.

19. Plaintiff has since sought replacement through Kelly Services, but they claim to not be able to place her because of her permanent termination with Nissan.

20. Present at Plaintiff's termination were the Trim 1 supervisor, who was not Plaintiff's direct supervisor, and an Human Resources employee with Nissan.

21. No employee of Kelly Services was present at her termination.

22. No documentation was provided to the Plaintiff upon her termination.

CAUSES OF ACTION.

COUNT I – VIOLATION OF THE FMLA

23. Plaintiff re-alleges and incorporates all averments set forth in paragraphs 1 through 22 above as if fully incorporated herein.

24. The Defendant violated the FMLA ultimately by terminating Plaintiff because she had to take FMLA leave.

25. The unlawful actions of the Defendant complained of above were intentional, malicious, and taken in reckless disregard of the statutory rights of Plaintiff.

COUNT II - VIOLATION OF THE FMLA-RETALIATION

26. Plaintiff re-alleges and incorporates all averments set forth in paragraphs 1 through 25 above as if fully incorporated herein

27. Defendant violated the FMLA by terminating Plaintiff in retaliation for taking FMLA leave to care for her children.

28. Plaintiff has been harmed as a result of this retaliation, and the Defendant is liable to Plaintiff for the same.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF RESPECTFULLY PRAYS that the Court cause service to issue in this cause upon the Defendant and that this matter be set for trial. Upon trial by jury thereon, Plaintiff prays that the following relief be granted:

1. Reinstatement or front pay in lieu of reinstatement, back pay, lost benefits, and other pecuniary losses proximately caused by Defendants' unlawful conduct;

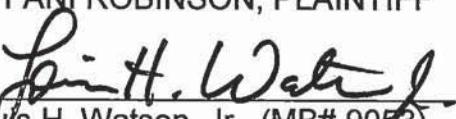
2. Compensatory damages against Defendants in an amount to be determined by the jury;
3. Interest;
4. Liquidated damages;
5. Punitive damages against Defendants in an amount to be determined by the jury;
6. All costs, disbursements, pre-judgment interest, post-judgment interest, expert witness fees and reasonable attorney's fees allowed under the FMLA;
7. Such further relief as is deemed just and proper.

THIS the 19th day of March 2018.

Respectfully submitted,

TIFFANI ROBINSON, PLAINTIFF

By:


Louis H. Watson, Jr. (MB# 9053)
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